



MASSACHUSETTS ORGANIZATION OF STATE ENGINEERS AND SCIENTISTS

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August 22, 2011

Marianne Dill
Director of Labor Relations
EOHHS
600 Washington Street
Boston, MA 02111

BY ELECTRONIC MAIL

Dear Director Dill:

On Wednesday, August 17, 2011 the Department of Mental Health and MOSES met to bargain over the impacts of the department's decision to engage in a reduction in force (RIF). During, and as a result of, that meeting it became apparent that in order for MOSES to properly carry out its statutory duties as exclusive bargaining representative of the affected employees we would need the below listed information. Additionally, I have included several requests for several actions that DPH should take in an effort to provide a modicum of amelioration to the affected employees.

1. Attached is a copy of the Commonwealth's FY 2012 Funding Account 45161000 – Safe Laboratory and Communicable Disease Control Services.
 - Please advise as to how the Department is able to fulfill the budgetary mandate that it "...give priority to the analysis of samples used in the prosecution of controlled substances offenses;" by eliminating the Amherst Drug Laboratory.
2. What is the Department's estimated costs on Chemists traveling from the Boston/Jamaica Plain location to Western MA courts to provide testimony on sample analysis? [In FY '11 the Amherst Drug Lab personnel made 60 court appearances (approximately 52 in western MA).]
3. What is the Department's impact estimate to the analysis turnaround time for FY '12 with the elimination of the Amherst Laboratory? (Currently, with Amherst performing

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analysis on 25% of Jamaica Plain's/Boston's samples the Amherst turnaround is 33 days, JP/Boston is 90 days).

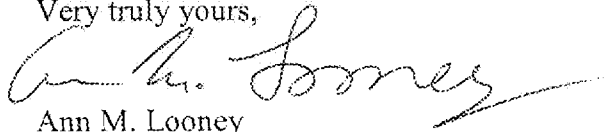
4. The Department should be aware that as a result of the U.S. Supreme Court decision in *Melendez-Diaz v. Massachusetts*, 557 U.S. ___, 129 S.Ct. 2527 (June 25, 2009) that all samples analyzed by laid off employees may have to be re-analyzed by currently working personnel. Therefore, what is the:
 - associated cost attributed to such?
 - impact on the turnaround time for sample analysis?
5. Has the Department requested inclusion of \$283,000 in the Governor's Supplemental budget in order to keep the Amherst Laboratory open?
 - If not, will the Department request inclusion of \$283,000 in the Governor's Supplemental budget in order to keep the Amherst Laboratory open?
6. Identify the statutory language that prohibits the Department from transferring funds among accounts.
 - when was the last time the Department sought to change that statutory language in order to acquire more control/discretion over how appropriated funds are spent? Please provide any documentation of such.
7. Please identify each account by which each bargaining unit 9 member is remunerated and please include: name; position; section and work location.
8. How many "03 type" contractors are currently employed within DPH and How many "03 type" contractors are currently employed within the State Laboratory and Communicable Disease Control Services?
 - Please provide MOSES with names, titles, location, dates of employment, salary, program name, account used for remuneration, job descriptions and contracts.
9. How many employees at the DPH are currently employed under contracts similar to that employing Mr. Tom Nash at Shattuck Hospital?
 - Please provide MOSES with names, titles, location, dates of employment, salary, program name, account used for remuneration, job descriptions and contracts.
10. With regard to numbered items 9. and 10. above please advise as to how DPH is not in violation of Massachusetts General Law chapter 29 Section 29A which provides in pertinent part: "No person employed by the Commonwealth as a consultant so-called shall directly or indirectly supervise another temporary or permanent employee of the

Commonwealth. Consultant contracts, ..., shall not be used as substitutes for state positions.”

11. Please provide a list of all bargaining unit 9 positions filled within the last six months.
 - Include: position title name, effective date of appointment, salary, work location, program name, account used for remuneration.
12. Please provide a list of all bargaining unit 9 members promoted and/or reclassified, reallocated, transferred, etceteras into management designated positions.
 - Include position title, name, effective date of appointment, salary, work location, program name, account used for remuneration.
13. What outsourcing assistance is the Department providing to employees impacted by layoff? Will:
 - professional assistance with resume writing be provided?
 - employees be allowed the use of computers and/or copiers and/or telephones for any period of time?
14. Please provide MOSES with a list of all fillable vacant Bargaining Unit 9 positions within the jurisdiction of the appointing authority.
15. Has DPH contacted other agencies to inquire as to whether they have vacant fillable positions?
 - If so, please provide that information.
 - If not, please do so immediately and request that those positions remain unfilled, during the layoff process. Please provide any information/documentation in this regard.
16. Please provide a copy of the Human Resources Division (HRD) approved RIF plan to be implemented on or about September 7, 2011.
17. Please provide any and all documents pertaining to the RIF decision being implemented on or about September 7, 2011 (i.e., electronic mails, memoranda, etceteras).
18. Please notify MOSES (General Counsel Ann M. Looney) of the date, time and place that layoff notices will be distributed to employees so that MOSES may have a representative present to advise employees.
19. As the Department always has in the past, expand Article 18.3E.’s provision that all laid-off employees will remain on the recall roster for two years to three years. Similarly expand Article 18.4’s provision that a break in service for two (2) years or less to three (3).

An expeditious response is expected. Should you wish to meet for further discussion on these items please ensure that someone is available that will be able to answer these questions and/or provide this information. Thank you for your anticipated cooperation in this matter.

Very truly yours,



Ann M. Looney
General Counsel

Attachment

cc: Joseph Dorant
B. Marie Cunningham
DPH BOD Members
Michelle Gates
Matthew Hale
Challis McNally